

**Notice of Allowability**

Application No.

10/556,660

Examiner

Erica E. Cadugan

Applicant(s)

GYSI ET AL.

Art Unit

3726

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 11/17/2010 and interview of March 2011.
2. ☒ The allowed claim(s) is/are 2,4-9,14,15 and 18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.  |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Richard Twilley on March 4, 2011.

The application has been amended as follows:

Amendments to the Claims:

Non-elected claim 1 has been canceled.

2. (Previously Presented) A processing device comprising:  
an advancing mechanism; and  
a plurality of processing stations arranged in succession along an advancement direction, wherein the advancing mechanism is adapted to advance a single row succession of objects along the advancement direction and comprises two conveyor belts arranged parallel to one another and driven in synchronism by a common drive, wherein a plurality of individual object receivers comprising opposed means for fixing an object about its perimeter are formed on the conveyor belts, and  
wherein each of the plurality of processing stations is equipped to process a single object at a time, and  
wherein the device is adapted to produce metal covers with tear-off foils, and

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wherein one of the plurality of processing stations is a stamping processing station comprising an upper work tool and a lower work tool for the stamping of at least one hole.

3. (Previously Canceled)

4. (Previously Presented) The processing device according to claim 2, wherein one of the plurality of processing stations is a drawing processing station for drawing the edge of the at least one hole, and

wherein one of said processing stations is a sealing processing station for applying a tear-off foil over the at least one hole.

5. (Previously Presented) The processing device according to claim 4, wherein the sealing processing station is adapted to stamp at least one tear-off cover from a foil and place the at least one tear-off cover over the at least one hole.

6. (Previously Presented) A processing device according to claim 4 further characterized in that the sealing processing station is one equipped to apply a previously stamped out tear-off cover.

7. (Currently Amended) A processing device according to claim [[6]] 4 further characterized in that the sealing processing station is connected in series with a stamping out station for the tear-off cover or in series with a station for taking a tear-off cover from a stack of such covers.

8. (Previously Presented) A processing station according to claim 7 further characterized in that the sealing processing station is connected in series with an adhesion station and/or a pre-warming station.

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9. (Previously Presented) A processing device according to claim 2, wherein one of the plurality of processing stations is a coining station for coining at least one tear-off foil, and wherein one of the processing stations is a bending station for bending an edge of at least one hole.

Non-elected claim 10 has been canceled.

Non-elected claim 11 has been canceled.

Non-elected claim 12 has been canceled.

13. (Previously Canceled)

14. (Currently Amended) The processing device according to claim 2, ~~wherein the processing device is adapted to produce covers with tear-off foils, and~~ wherein the plurality of processing devices further comprises ~~at least one stamping processing station and~~ a sealing processing station which is connected to the stamping processing station ~~are connected~~ by way of the advancing mechanism.

15. (Previously Presented) The processing device according to claim 2, wherein the opposed means are magnetic holding means.

16. (Previously Canceled)

17. (Previously Canceled)

18. (Previously Presented) A processing device comprising: an advancing mechanism; and a plurality of processing stations arranged in succession along an advancement direction, wherein the advancing mechanism is adapted to advance a single row succession of objects along the advancement direction,

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wherein each of the plurality of processing stations is equipped to process a single object at a time,

wherein the advancing mechanism comprises two conveyor belts arranged parallel to one another and driven in synchronism by a common drive,

wherein a plurality of individual object receivers comprising opposed means for fixing an object about its perimeter are formed on the conveyor belts,

wherein the device is adapted to produce metal covers with tear-off foils,

wherein at least one of the plurality of processing stations is a stamping processing station comprising an upper work tool and a lower work tool for the stamping of at least one hole, said stamping processing station further comprising an upper work tool carrier and a plurality of columns for supporting the upper work tool;

wherein one of the plurality of processing stations is a drawing processing station for drawing the edge of the at least one hole, and

wherein one of the plurality of processing stations is a sealing processing station for applying a tear-off foil over the at least one hole.

Non-elected claim 19 has been canceled.

2. The following is an examiner's statement of reasons for allowance:

Regarding U.S. Pat. No. 6,112,389 to Boltshauser, Boltshauser was previously described in detail in a rejection in at least the Office Action mailed June 18, 2010. Attention is directed to the June 2010 Office Action for further details. Suffice it to say, Boltshauser does not teach that the two conveyor belts 5, 8 are "driven in synchronism by a common drive" as set forth in independent claim 2 (and independent claim 18). Additionally, while Boltshauser does mention

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a press 30 that cold forms the cans in the first place (col. 5, lines 20-34 and col. 1, lines 24-45, for example), Boltshauser does not teach that “the device is adapted to produce metal covers with tear-off foils, and wherein one of the plurality of processing stations is a stamping processing station comprising an upper work tool and a lower work tool for the stamping of at least one hole” as set forth in independent claim 2 (and independent claim 18).

Also, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Boltshauser (particularly regarding the “common drive” for the two conveyor belts, noting the conveyor configuration taught by Boltshauser re Figure 5), and thus, for at least the foregoing reasoning, Boltshauser does not render obvious the present invention as set forth in independent claims 2 and 18.

Regarding U.S. Pat. No. 6,122,821 to Dornieden et al., Dornieden et al. was previously described in detail in a rejection in at least the Office Action mailed June 18, 2010. Attention is directed to the June 2010 Office Action for further details. Suffice it to say, Dornieden does not teach that the object receivers formed on the conveyor belts comprise “opposed means for fixing an object about its perimeter”, as such “opposed means for fixing an object about its perimeter” is/are described in the specification (see at least Figure 14 and paragraph 0027 of the specification), nor does Dornieden teach any “equivalent” thereof (with respect to 35 USC 112, 6th paragraph) re independent claims 2 and 18. Additionally, re dependent claim 15, which further sets forth “wherein the opposed means are magnetic holding means”, and thus which provides enough structure (i.e., magnet) to take the “means for fixing...” limitation out of the realm of 35 USC 112, 6<sup>th</sup> paragraph, Dornieden does not teach that any “plurality of individual

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object receivers comprising opposed means for fixing an object about its perimeter are formed on the conveyor belts”, wherein “the opposed means are magnetic holding means” as set forth in claim 15.

Also, particularly noting how Dornieden is configured, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of Dornieden, and thus, for at least the foregoing reasoning, Dornieden does not render obvious the present invention as set forth in independent claims 2 and 18.

Additionally, regarding DE 4315416 (hereinafter DE ‘416), DE ‘416 was described in detail on pages 18-19 of the Office Action mailed June 18, 2010. Suffice it to say, DE ‘416 does not explicitly teach that “the device is adapted to produce metal covers with tear-off foils” as set forth in independent claims 2 and 18. Additionally, DE ‘416 does not teach that “one of the plurality of processing stations is a stamping processing station comprising an upper work tool and a lower work tool for the stamping of at least one hole” as set forth in independent claims 2 and 18.

Also, there is no combinable teaching in the prior art of record that would, reasonably and absent impermissible hindsight, motivate one having ordinary skill in the art to so modify the teachings of DE ‘416 (particularly noting that DE ‘413 is primarily concerned with heating, drying, and/or possibly cover printing, as described in the machine translation, page 1, 3rd paragraph thereof, for example), and thus, for at least the foregoing reasoning, DE ‘413 does not render obvious the present invention as set forth in independent claims 2 and 18.

The aforescribed prior art being representative of the closest prior art of record, for at least the foregoing reasoning, the prior art of record neither anticipates nor renders obvious the present invention as set forth in independent claims 2 and 18.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Comment re Election/Restrictions**

3. The previous election of species requirement has been reconsidered-in-part in view of the allowability of claim 2 pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Thus, claims 6-8, directed to previously non-elected species, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim (i.e., claim 2).

In view of the above noted withdrawal of a portion of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.



### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on Monday-Thursday, 5:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erica E Cadugan/  
Primary Examiner  
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eec  
March 7, 2011